unitus
COMMUNITY CREDIT UNION

August 31, 2015

Mr. Gerard Poliquin
Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, VA 22314-3428

Re: *Comment Letter to the Proposed Amendments to NCUA's MBL Rule*

Dear Mr. Poliquin:

I am writing you today on behalf of Unitus Community Credit Union, located in Portland, Oregon. With over $975 million in assets, Unitus serves nearly 90,000 members. I would like to thank you for the opportunity to express our views on the recent proposal by the NCUA Board addressing the Member Business Lending (MBL) rules of the National Credit Union Administration in Section 723.

We are well aware that community bankers and their associations have filed numerous form letters challenging the NCUA on a wide range of issues, including statutory authority, safety and soundness, and general philosophy. While disappointing, it was expected, and we would like to point out that the NCUA stands out amongst its peers, demonstrating that the regulatory system in place for natural person credit unions was sufficient to weather a historic crisis. While bankers argue that credit unions are not equipped to offer business loans, we respond that 98% of credit unions that offer MBLs are well-capitalized. Business loans have helped credit unions diversify their balance sheets and lower overall risk. In addition, credit unions hold more capital relative to their balance sheets, take less overall risks than other types of financial institutions, and have personal relationships with their members. These are all reasons why credit unions are well-positioned to grow their business lending portfolios and help Main Street communities return to prosperity. In contrast, the losses and failures suffered by FDIC-insured banks have been staggering. Instead of encouraging the NCUA to maintain anti-competitive rules, the Independent Community Bankers Association should be focusing on the inadequacies of their own regulatory system, which led to an economic collapse of historic proportions.

In reviewing the proposed amendments, we noted several positive aspects and support several items:

- Section 723.4, Commercial Loan Policy, which increases from 15% of net worth limit on loans to one borrower to 25% of net worth, if the additional 10% is supported by readily marketable collateral. We commend the NCUA for this well-balanced approach and providing regulatory flexibility as prudent means to extend, within the

bounds of the current statute, the credit union's lending powers to serve its members.
- Section 723.5, Collateral and Security, which proposes that the credit union has both the risk management interest and underwriting ability to effectively analyze whether a personal guarantee is required in the risk mitigation of any particular business loan. While a personal guarantee is often warranted, removing this requirement will allow the credit union to compete more effectively.
- The removal of references to the 12.25% cap, instead defining the cap as 1.75 times the applicable net worth requirement for a credit union to be categorized as well-capitalized.
- The detailed limits on construction and development loans.
- The classification of an MBL vs. commercial loan. The NCUA is statutorily required to consider some low-risk loans as MBLs, including a 1-4 family residential property that is not a primary residence or a vehicle that costs over $50,000, even if they are used for household purposes. Under the proposed rule change, these loans would not be subject to enhanced requirements of higher risk commercial lending.

There are a few items that cause concern that we wanted to call out specifically for your consideration and review:

- The proposed regulation states that an 18-month implementation timeline will be required before the regulation goes into effect. While the longer timeframe could help alleviate some concerns around examiner inconsistency in interpretation and application of the new MBL regulations, it is unwarranted for some of the items that are relatively simple. These changes have a positive and material impact on credit union MBL programs and many can be implemented by updated existing business lending policies and procedures. Examples include the credit risk rating system, unsecured lending, personal guaranties, and the loans to one borrower limit. In all cases, many credit unions have the infrastructure in place to implement these changes quickly.

- The NCUA's consideration of eliminating state MBL rules as well as the ability of states to apply to have their own MBL regulation. Preemption is an important issue to all credit unions – state-chartered, federally-chartered, and credit unions in states that do not have their own MBL rules – because all credit unions benefit from a regulatory environment that promotes innovation. Oregon has a superb State Supervisory Authority (SSA); we view our State regulatory body as a strong leader committed to updating its charter and improving the regulatory framework on an annual basis. Working closely with the NCUA, this commitment has allowed state-charted credit unions like Unitus to thrive. State-chartered credit unions in Oregon hold three times the average assets of a federal charter. This is in large part due to the unique advantages of the statutory and regulatory framework that Oregon state-chartered credit unions enjoy. State-specific MBL rules allow state supervisory authorities to interpret a rule differently from the way that the NCUA interprets a section of the rule, even if the rule is substantially the same as the NCUA rule. We ask that the NCUA remove from the commentary on State Regulation of Business Lending that indicates state supervisory authorities do not have the ability to interpret their own MBL rules granted by the NCUA board, in relation to the Federal

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Credit Union Act. We are specifically asking that the NCUA not make any adverse changes to Part 741.

- One issue that is not specifically addressed in the Proposed Rule warrants mentioning for consideration by the NCUA for regulatory revision – Prepayment Penalties. Federally chartered credit unions are prohibited by regulation from having a prepayment penalty on any type of loan. In business lending, a higher investment by the lender is required due to specialized expertise and systems. The investment made in originating and managing a commercial real estate loan, for example, will typically be thousands of dollars in staff time, systems, and third party costs. If a business member takes out a commercial real estate loan with no prepayment penalty, then refinances or pays off that loan a few months later, the credit union which by regulation, could not charge a prepayment penalty, has not had sufficient time to earn interest and recoup the high costs of making the loan. This results in an economic hardship for the credit union that was strictly caused by regulations. Making this change will bring the federal regulation in step with many states that allow this.

Thank you for the opportunity to comment on the proposed changes to the MBL rule. We believe in the leadership of Chair Matz, Vice Chair Metsger, and Board Member McWatters and their willingness to address valid concerns. We appreciate the NCUA's commitment to improving the regulatory landscape for credit unions.

Sincerely,

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